

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

USA,

Plaintiff,

v.

JOSE INEZ GARCIA-ZARATE,

Defendant.

Case No. 17-cr-00609-VC-1

**ORDER DENYING MOTION TO
SUPPRESS STATEMENTS BASED
ON FOURTH AMENDMENT
VIOLATION**

Re: Dkt. No. 40

The motion to suppress Garcia-Zarate's statements on the ground that his arrest violated the Fourth Amendment is denied. The police arrested Garcia-Zarate because three people who looked toward the scene after hearing the gunshot identified him as a possible shooter. The witnesses saw everyone running toward the victim, except for one man who was walking swiftly away. They found this behavior suspicious and reported the man to the police as a possible suspect. Two of the witnesses shared photographs they had taken. Within the hour, the police found a man who was in the right area, who was wearing the same clothing as the man the witnesses had identified, and who otherwise matched their descriptions.¹ The police, without a warrant but acting on "the kind of fair probability on which reasonable and prudent people . . . act," arrested Garcia-Zarate. *Florida v. Harris*, 568 U.S. 237, 244 (2013) (internal quotation marks and alterations omitted). There was no Fourth Amendment violation.

¹ Witnesses had described the suspicious man as "possibly African American" and having dark skin. Mr. Garcia-Zarate is not black, but he does have a darker skin tone such that he fairly matched the suspect's profile despite the racial misclassification.

IT IS SO ORDERED.

Dated: December 23, 2019



VINCE CHHABRIA
United States District Judge